

SUMMARY MINUTES DURHAM BOARD OF ADJUSTMENT

April 25, 2000

The meeting was called to order at 8:30 a.m.

ROLL CALL

The Clerk called the roll and recorded attendance as follows:

MEMBERS SEATED

Lavonia Allison
William Brian
James Edney
Kate Fulkerson
Louis Goetz
Corinne Mabry
David Smith
Connia Watson
Kathy Wright-Moore

MEMBERS NOT SEATED

MEMBERS ABSENT

Evelyn Lovett

STAFF PRESENT

Brenda J. Daniel, Clerk, Board of Adjustment
Cassandre' Haynesworth, Planning Staff
Betty Johnson, Planning Staff
Karen Sindelar, Deputy City Attorney
Lowell Siler, Deputy County Attorney
Helen Youngblood, Key Leader

SWEARING IN OF WITNESSES

The Chairman administered the oath to the following applicants and witnesses:

Helen Youngblood	Betty Johnson
Cassandre' Haynesworth	Scott Smith
John Franklin	Shawn Mercer
Susanne Schneider	Steve Hodson
Steve McEvay	David Havghney
John Bland, Jr.	Drew Robison
Laura Hodson	Peter Sarde
Patt Sarda	Robert Williams
Rev. Dennis Davis	W. T. Joines
John Blackley	Michael Dean
Dale McKeel	Bety Moore
Christian Bigsby	Leon Meyrs
Gray Styre	John Bryson
Deborah Bryson	Jane McGarry
Leroy Reynoles	

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Chair Watson read the following statement into the record:

This Board is a quasi-judicial Board and as such, all testimony will be recorded. The process is similar to a court procedure. First the staff will present an overview of the case, then the applicant presents its evidence.

The opponents, if there are any, will then present their evidence. The applicant may then present its rebuttal. Board members may ask questions at any time. All testimony is given under oath. In a few minutes I will give the oath to all witnesses as a group. All witnesses are asked to sign the roster at the podium if you have not done so.

All witnesses should come to the podium and speak directly into the microphone so the testimony can be recorded on tape. Written evidence shall be formally presented to the Chair and a determination will be made about whether it should be accepted. Written evidence can be inspected by either side. All evidence, written and oral, can be objected to. Witnesses are subject to cross-examination.

Opposing representatives will have a chance to question witnesses after all the witnesses for the other side have testified. If you wish to cross-examine, you must raise your hand when I ask for cross-examination and I will recognize you.

The Board will vote on each case after the presentation of all evidence, pro and con, concerning the case. The law requires that in order for an applicant's request to be granted 5 of the 7 voting Board members must approve the request.

Board members may have visited the site in preparation for this meeting.

Mr. Chair read Section 2.1.c. of the Board's Rules of Procedure, which state:

"Board members may request to be excused by the Chair from a meeting or hearing when an important conflict exists. In such cases, the member shall inform the Board at the beginning of the meeting/hearing. The member shall be counted as absent until (s)he attends at least 3 hours of a meeting/hearing, assuming such meeting is at least 3 hours long. The Chair may refuse to excuse a member when the member's absence would leave fewer than 7 members to hear a case or where circumstances otherwise warrant the member's remaining."

He reminded Board members that they must stay for the minimum 3 hours to counted present; although he could refuse their early departure if that would conflict with the caseload of the Board.

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HEARING AND DETERMINATION OF CASES

Ms. Johnson asked that all staff reports and materials submitted at the meeting be made part of the permanent record with any additions, deletions, and or corrections that may be necessary. All Board members concurred.

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Mr. Goetz indicated that he had a conflict and would not seat on this case. Ms. Fulkerson was asked to seat for Mr. Goetz for this case.

SEATED: Ms. Allison, Mr. Brian, Mr. Edney, Ms. Fulkerson, Ms. Mabry, Mr. Smith, Mr. Watson

Case B00-4 County

A request by GTE Mobile Net of Raleigh for a Minor Special Use Permit for a tower for transmitting and receiving electronic signals as per Sections 4A.1.20, 7.39, 9, 10 and 13.1 of the Durham Zoning Ordinance. The property is located at 1321 Boyce Mill Road and zoned RD and R-20 (F/JA). Tax Map 992-1-13. **This case was continued from the March 28th meeting. No further advertisements or notifications were required.**

Staff Presentation was made by: Helen Youngblood

Persons Appearing in Support: Scott Smith, Sharn Mercer, Susanne Schneider, Steve Hodson, Steve McEvay, David Haughney, Laura Hodson, W. T. Joines, John Blackley, Gray Styers

Persons Appearing in Opposition: John Franklin, John Bland, Jr., Drew Robison, Peter Sarda, Patt Sarda, Michael Dean, Dale McKeel, Bety Moore

Staff Recommendation was: Approval

Motion: Mr. Brian made a motion to approve the request as submitted, based on findings of fact by the Board that Sections 4A.1.20, 7.39, 9, 10 and 13.1 of the Durham Zoning Ordinance had been met.

Conditions: None

Seconded By: Ms. Fulkerson

Vote: 0-7

Action: Denied

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SEATED: Ms. Allison, Mr. Brian, Mr. Edney, Mr. Goetz, Ms. Mabry, Mr. Smith, Mr. Watson

Case B00-5A **City**

A request by Anne and Tom Niemann for a Variance of 3 feet, 6 inches from the required 10' side yard setback as per Section 16.2.1 of the Durham Zoning Ordinance. The property is located at 3816 Dover Road and is zoned R-10 (F/J-B). Tax Map 269-3-5.

Staff Presentation was made by: Cassandre' Haynesworth

Persons Appearing in Support: Leon Meyers

Persons Appearing in Opposition: None

Staff Recommendation was: N/A

Motion: Mr. Smith made a motion to grant the request as submitted, based on findings of fact by the Board that Sections 4A.1.3, 7.16, 9, 10, 16, 19.7.1.a and 19.7.2.b had been met.

Conditions: N/A.

Seconded By: Mr. Brian

Vote: 7 to 0

Action: Granted

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SEATED: Ms. Allison, Mr. Brian, Mr. Edney, Mr. Goetz, Ms. Mabry, Mr. Smith, Mr. Watson

Case B00-5B City

A request by Anne and Tom Niemann for a Minor Special Use Permit for the expansion of a single family dwelling as per Section 19.7.1.a. and 19.7.2.b. of the Durham Zoning Ordinance. The property is located at 3816 Dover Road and is zoned R-10 (F/J-B). Tax Map 269-3-5.

Staff Presentation was made by: Cassandre' Haynesworth

Persons Appearing in Support: Leon Meyers

Persons Appearing in Opposition: None

Staff Recommendation was: N/A

Motion: Ms. Allison made a motion to grant the request as submitted, based on findings of fact by the Board that Sections 4A.1.3, 7.16, 9, 10, 16, 19.7.1.a and 19.7.2.b had been met.

Conditions: N/A.

Seconded By: Mr. Smith

Vote: 7 to 0

Action: Granted

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SEATED: Ms. Allison, Mr. Brian, Mr. Edney, Mr. Goetz, Ms. Mabry, Mr. Smith, Mr. Watson

Case B00-6 City

A request by Deborah and John Bryson for a Minor Special Use Permit for a daycare facility for 14 children as per Sections 4A.4.3.5, 7.13, 8.1.15 and 13.1 of the Durham Zoning Ordinance. The property is located at 6705 Garrett Road and zoned R-10 (F/J-B). Tax Map 426-1-5.

Staff Presentation was made by: Cassandre' Haynesworth

Persons Appearing in Support: Deborah and John Bryson

Persons Appearing in Opposition: None

Staff Recommendation was: Approval

Motion: Ms. Allison made a motion to grant the request as submitted, based on findings of fact by the Board that Sections 4A.4, 7.13, 8.1.15, 9, 10 and 13.1 of the Durham Zoning Ordinance had been met.

Conditions:

1. That the applicant file a drive access agreement prior to the Inspections Department's release of a permit or the issuance of Certificate of Occupancy or sign off on State licensing.
2. That all site plan improvements be made and verified by Planning staff prior to issuance of permit or Certificate of Occupancy

Seconded By: Mr. Goetz

Vote: 7 to 0

Action: Granted

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SEATED: Ms. Allison, Mr. Brian, Mr. Edney, Mr. Goetz, Ms. Mabry, Mr. Watson; Ms. Wright-Moore

Case B00-10 City

A request by Chancellors Ridge Development Corporation, LLC for a Minor Special Use Permit for an increase in the height of a flagpole as per Sections 8.1.27 and 13.1 of the Durham Zoning Ordinance. The property is located at the entranceway of the Chancellor's Ridge Subdivision and is zoned PDR-2.65 (F/J-B). Tax Map 529A-1-1A.

Staff Presentation was made by: Betty Johnson

Persons Appearing in Support: John Blackley, Designer with RL Horvath Associates

Persons Appearing in Opposition: None

Staff Recommendation was: Approval

Motion: Mr. Brian made a motion to grant the request as submitted, based on findings of fact by the Board that Sections 8.1.27 and 13.1 of the Durham Zoning Ordinance had been met.

Conditions: None

Seconded By: Ms. Wright-Moore

Vote: 7 to 0

Action: Granted

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SEATED: Ms. Allison, Mr. Brian, Mr. Edney, Mr. Goetz, Ms. Mabry, Mr. Watson; Ms. Wright-Moore

Case B00-11 City

A request by The Pilgrim Baptist Church for a Minor Special use permit for a place of worship as per Sections 4A.7.3.8, 7.28, 8.1.15 and 13.1 of the Durham Zoning Ordinance. The property is located on the north side of Charles Street and zoned R-3. Tax Map 89-1-11.

Staff Presentation was made by: Betty Johnson

Persons Appearing in Support: Rev. Dennis Davis, Leroy Reynolds, Architect

Persons Appearing in Opposition: None

Staff Recommendation was: Approval

Motion: Ms. Wright-Moore made a motion to grant the request as submitted, based on findings of fact by the Board that Sections 4A.7.3.8, 4A.6.3.9, 7.28, 9, 10, 12 and 13.1 of the Durham Zoning Ordinance had been met.

Conditions: 1. That all site plan corrections be made.
2. That the lighting plan meet Ordinance requirements.

Seconded By: Ms. Allison

Vote: 7 to 0

Action: Granted

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Approval of Summary Minutes

Mr. Brian made a motion, seconded by Mr. Goetz to approve the summary minutes with one noted change. The motion passed unanimously.

Approval of Denial Orders

B99-55, M. L. Barnes and B99-65, Furney Brown: The Board asked that the staff review the orders with Ms. Sindelar to see how to reflect the negative findings correctly and with some changes, bring the draft orders to the next hearing.

There being no further business to come before the Board, the meeting was adjourned at approximately 12:45 p.m.

Respectfully submitted,

Brenda J. Daniel, Clerk
Durham Board of Adjustment